

Screen Australia Head Office
Level 4, 150 William Street
Woolloomooloo NSW 2011
Australia

INTERNATIONAL CO-PRODUCTION PROGRAM GUIDELINES

www.screenaustralia.gov.au

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1. INTRODUCTION

Screen Australia administers the Official Co-production Program and is the "competent authority" for the purposes of the program.

Australian producers are strongly advised to seek the advice of Screen Australia regarding intended official co-productions prior to the submission of a formal application.

**Please contact Screen Australia for a copy of the treaty or MOU relevant to your application, or download these from the Screen Australia website:
www.screenaustralia.gov.au/copros**

2. LEGISLATION AND TREATIES

Australian film legislation (the *Screen Australia Act 2008*, the *Income Tax Assessment Act 1997* and the *Broadcasting Services (Australian Content) Standard 1999*) defines those films which may be eligible for benefits (such as investment by Screen Australia, tax benefits, or Australian television content points) by virtue of being certified as 'Australian films'.

The definition includes not only films made wholly or substantially in Australia and having a significant Australian content, but also "films made pursuant to an arrangement between the Commonwealth (or an authority of the Commonwealth) and a foreign country (or the authority of a foreign country)".

Accordingly, the Commonwealth Government and the competent authority have entered into appropriate arrangements with the Governments of Canada, China, Germany, Ireland, Israel, Italy, Singapore and the United Kingdom and with the competent authorities in France and New Zealand, pursuant to which films (as defined therein) may be made as "official co-productions", thereby becoming eligible for certification as Australian films. A co-production treaty is currently being negotiated with the Government of South Africa.

Screen Australia administers the Official Co-production Program within the terms of these guidelines, which should be read in conjunction with whichever treaty or Memorandum of Understanding (MOU) applies to the country with which an official co-production may be contemplated.

Each co-production must comply with all of the articles and annexes that may appear in the relevant treaty or MOU.

The international co-production treaties and MOUs contain in their annexes specific provisions which must be included in the Agreement entered into by the Australian producer and the foreign co-producer(s). These vary from country to country.

3. ELIGIBILITY

To qualify for official co-production status, each co-production must comply with the arrangements below.

Further, all treaties and MOUs require that an **overall balance** of all creative and financial elements be maintained across co-productions over a period of time. It is therefore possible that a proposal eligible under these guidelines may not qualify should it contribute to an unacceptable imbalance within a series of co-productions approved under a given treaty or MOU.

3.1 Underlying works and screenplays

Subject to the terms of the relevant treaty or MOU, a project may be based on an underlying work (for example, a novel or a concept) from any country. However, the screenplay, and all drafts of it, must be written by a national or permanent resident of one of the co-producing countries.

In addition, screenplays written by nationals and residents of the Member States of the European Union will be accepted by Screen Australia in accordance with the terms of Australia's co-production agreements with the United Kingdom, Ireland, France, Italy and Germany.

As at the date of these guidelines, the current Member States of the European Union are Belgium, Bulgaria, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Austria, Portugal, Finland, Sweden, Romania, United Kingdom, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia and Slovenia.

3.2 Participants

(a) There must be a co-producer from each of the countries concerned, who must between them contribute 100 per cent of the cost of a proposed co-production film, though they may obtain their contribution from any source(s) from their own or any other country.

(b) Individuals participating in the making of a co-production must be "nationals" or "residents" of Australia or of the co-producing country (as defined in the relevant treaty or MOU). In exceptional circumstances, where script or financing dictates, limited numbers of performers from other countries may be engaged, subject to the approval of Screen Australia and the competent authority of the co-producing country.

For Canadian co-productions, applicants are required to substantiate that a performer from another country is "internationally recognised".

In addition, nationals and residents of the Member States of the European Union may participate in the making of a co-production in accordance with the terms of Australia's co-production agreements with the United Kingdom, Ireland, France, Italy and Germany.

For information on the participation of New Zealand nationals in co-productions, see Screen Australia's website at www.screenaustralia.gov.au/copros, or contact Screen Australia staff.

(c) For Australian purposes, "nationals" or "residents" mean Australian citizens or permanent residents of Australia.

(d) Where location filming in a third country has been approved, citizens of that country may be employed as crowd artists, in small roles, or as additional employees whose services are necessary for the location work to be undertaken.

(e) The Australian producer must retain a share in the co-production copyright.

3.3 Finance

Actual sources of finance must be stated in the application form. Applicants must provide copies of the financing agreements with their applications. If financing agreements have not yet been finalised, applicants must provide information as to the likely terms of such financing agreements (such as signed deal memos or letters of offer) and must provide a draft of the agreement. Screen Australia will make a provisional decision on an application pending receipt of executed financing agreements.

3.4 Participation levels

(a) Each treaty and MOU sets out the minimum percentage of Australian participation required in a co-production pursuant to that treaty or MOU. This is typically 20 or 30 per cent.

Australian participation in a co-production is determined by:

- (i) the application of a points system as set out in section 4 by which the Australian producer must engage Australian nationals or residents as a percentage of the key creative participants in the co-production that is equivalent to the percentage of the budget contributed by the Australian producer
- (ii) an equivalent percentage of other cast and crew
- (iii) an equivalent percentage in the amount of the budget spent on Australian elements of the co-production. Australian elements may include cast, crew, facilities and materials, per diems of all Australians and their cost of travel and

accommodation whether incurred in Australia or not. Additionally, a percentage of contingencies, of the cost of insurances and of a completion guarantee may be included, as may legal costs incurred by the Australian producer.

(b) The percentage of the budget *contributed* by the Australian producer must be equivalent to the percentage of the budget *spent* on Australian elements of the co-production. **A leeway of up to 5 per cent is allowed.** For example, if the Australian producer contributes 55 per cent of the budget then the percentage spent on Australian elements should not be less than 50 per cent.

(c) When no Australian actors are employed in any of the four major roles (or as any of the three lead voices in the case of animation productions), technical or other cast participation must be increased to compensate in the overall Australian balance.

(d) Where both the writer and the director of a co-production film are neither citizens nor permanent residents of Australia, Australian creative participation must be greater than the minimum otherwise allowable.

4. THE POINTS SYSTEM

(a) Assessment of the equivalence between the percentage of a co-production budget contributed by the Australian producer and the percentage of Australian key participants, is done by calculating the latter on a "points" system.

(b) While some leeway is allowed, the Australian producer's *financial contribution* must not exceed the percentage of Australian *key participants* **by more than 5 per cent.** For example, where the Australian producer contributes 55 per cent of the budget, the Australian points should not be less than 50 per cent.

(c) A person who contributes to the Australian creative point score calculations must be an Australian national or permanent resident at the time the work is undertaken. Proof of citizenship or residency status may be required. In certain circumstances, New Zealand nationals may be included in the point system. For more information, see www.screenaustralia.gov.au/copros, or contact Screen Australia staff.

(d) An individual cannot be treated as two nationalities in one application.

(e) Screen Australia may approve 'splitting' the points on a project-by-project basis. (For example, in the case of a television series where half of the episodes are written by an Australian, Screen Australia may allocate half of the available points to the Australian writer and half to the writer from the co-producing country, ie they would each receive 1 point.)

4.1 Live action drama productions

(a) Each co-production is allocated 12 points. Points are scored as follows:

Director	2 points
Writer	2 points
Director of Photography	1 point
Composer	1 point
Editor	1 point
Production Designer	1 point
Each of the four major cast roles	1 point each
TOTAL	12 points

(b) Producers do not attract points because there must be, by definition, one from each of the co-producing countries.

(c) An additional point may be approved by Screen Australia on a project-by-project basis (eg for model builders in the case of science fiction films or choreographers in the case of musicals).

4.2 Documentary productions

(a) Each co-production is allocated 10 points. Points are scored as follows:

Director	2 points
Researcher/Writer	2 points
Film or Off-line Editor	2 points
Director of Photography	1 point
Sound Recordist	1 point
Composer	1 point
On-screen Presenter	1 point
TOTAL	10 points

(b) Off-screen narrators and commentators do not generally attract points because they are likely to be re-voiced for foreign sales.

(c) An additional point may be approved by Screen Australia on a project-by-project basis (eg for specialist cinematography such as underwater filming or a graphic designer where his or her contribution is demonstrably significant).

4.3 Animation productions

(The key element to the definition of animation is that it is shot frame by frame.)

(a) Each co-production is allocated 12 points. Points are scored as follows:

Director	2 points
Writer	2 points
Layout Director/Artist	1 points
Storyboard Artist	1 point
Character Designer	1 point
Key Animator/Animation Director	1 point
Composer	1 point
Each of the three lead voices	1 point each
TOTAL	12 points

(b) If co-productions are to be voiced in the language of each co-producer, lead voices will generally not be included in the points calculation. In such cases, the percentage of creative participation will be determined as a proportion of 9 points.

(c) An additional point may be approved by Screen Australia on a project-by-project basis (eg for a voice director, sound recordist/designer or production designer).

5. APPLICATION PROCEDURE

(a) The Australian producer must submit an application to Screen Australia.

(b) The completed application form must be accompanied by:

- (i) the script chain of title
- (ii) two copies of the final script or bible
- (iii) a one-paragraph synopsis
- (iv) presentation credits
- (v) the budget for the co-production, and a separate budget showing the Australian expenditure
- (vi) copies of the financing agreements
- (vii) producer's undertaking as described in section 6
- (viii) the agreement between the co-producers. Please note that the relevant treaty or MOU may require specific provisions to be incorporated into the agreement between the co-producers and it is Screen Australia's expectation that

any such provisions are incorporated into the agreement prior to submission to Screen Australia. The relevant provisions are highlighted in each treaty or MOU on Screen Australia's website.

(c) Screen Australia may request further information from the Australian producer during consideration of any application.

(d) If material is provided in draft form, producers must provide final (executed where applicable) copies when they become available, and in any case before completion of the co-production.

(e) All information supplied to Screen Australia will be treated in confidence. Copies of the script, bible and budget will be provided to the Co-production Committee in the course of its consideration of an application.

(f) The foreign producer(s) must make separate but equivalent applications to, and as required by, the competent authority in their own country.

(g) Applications must be received at least four weeks before the scheduled meeting of Screen Australia's Producer Offset and Co-production Committee at which the project will be considered. It is unlikely that projects received less than four weeks before a Committee meeting will be considered at that meeting.

(h) Inadequately prepared applications which do not give details of the majority of the actual personnel, financing, expenditure and production arrangements such as location of shooting and post-production, may not be able to be considered, and in any case will take longer to process.

(i) Application forms and copies of each treaty and MOU may be obtained from Screen Australia's website at www.screenaustralia.gov.au/coproductions, or by contacting Screen Australia at:

Screen Australia
Level 4, 150 William Street
Woolloomooloo NSW 2011
Phone: +61 2 8113 5800
Fax: +61 2 9357 3737
Toll free: 1800 213 099

6. PRODUCER'S UNDERTAKING

(a) Screen Australia's responsibility for the assessment and approval of official co-productions entails a further responsibility: to ensure that approved co-production films are made and completed within the terms of Screen Australia's approval.

Screen Australia thus requires each Australian producer applying for co-production status to enter into a formal undertaking, the major points of which are:

(i) The producer must obtain Screen Australia's prior approval of any amendment or alteration to the approved co-production in terms of casting, crewing, credits, locations, facilities, schedules, budgets, Australian elements within budgets, contracts and agreements or any matter included or touched upon in the producer's application and/or Screen Australia's written terms of approval.

(ii) The producer must obtain Screen Australia's approval of the full credits for the film, both front and end, prior to having them designed and shot.

(b) If a producer fails to comply with these undertakings or if a divergence occurs from the original terms of co-production approval for which Screen Australia's further prior approval has not been obtained, Screen Australia reserves the right to revoke co-production approval and/or deny the producer concerned future use of co-production arrangements.

7. ASSESSMENT AND APPROVAL

7.1 Provisional approval

(a) Applications are first assessed by the Producer Offset and Co-production Committee. The Committee makes a recommendation on each application to the Chief Executive Officer, based on whether the application complies with these guidelines, the relevant treaty or MOU, and the over-arching principle of balance (see section 3). The Committee may, alternatively, refer a project to the Screen Australia Board for decision, if the project's size or issues related to the production warrant this.

(b) The CEO will make a provisional decision on each proposed official co-production taking into consideration the recommendation of the Co-production Committee. Consultation then takes place between Screen Australia and the foreign competent authority.

(c) If an application for provisional approval is not approved by the Committee or Board, a new application must be lodged before the project will be considered again.

(d) If principal photography has not commenced within 2 years from the date of Screen Australia's provisional approval, then the provisional approval will lapse.

(e) Provisional approval can be used for the purpose of applying to Screen Australia for finance. (Note that approval of an official co-production does not guarantee financing from Screen Australia. A separate application must be made to Screen Australia in line with its existing funding guidelines and procedures.)

7.2 During production

(f) In accordance with the producer's undertaking made as part of the application process (see section 6), producers must notify Screen Australia if any of the elements set out in the application change during the course of the production and seek approval of those changes prior to implementation. If any of the elements change and Screen Australia does not authorise the changes, the project may lose its official co-production status and may become ineligible for its final 10BA, 10B or Producer Offset certificate and so possibly lose the benefits reserved for national productions of Australia.

7.3 Final approval

(g) Final approval will not be given until both Screen Australia and the foreign competent authority have approved the completed production as eligible.

(h) In order for Screen Australia to assess the completed production, the Australian producer must provide Screen Australia with:

- (i) Copies of all fully executed financing agreements.
- (ii) A copy of the final executed co-production agreement.
- (iii) One copy of the finished film on DVD.
- (iv) One copy of the final budget.
- (v) One copy of the full cast and crew list noting nationality or residency status of each cast or crew member.
- (vi) Such other documentation or information as Screen Australia may require to complete its assessment.

8. AFTER ASSESSMENT

(a) Projects which are approved as official co-productions are eligible to be treated as projects with a significant Australian content and may therefore access the Australian Screen Production Incentive – Producer Offset under the *Income Tax Assessment Act 1997* (Cth). The Producer Offset is also administered by Screen Australia. For further information see www.screenaustralia.gov.au/producer_offset

(b) The approval of a project as an official co-production guarantees automatic quota recognition within the terms of the *Broadcasting Services (Australian Content) Standard 1999*.

9. NOTES

(a) Screen Australia reserves the right to provide government financing organisations with such details of the co-production arrangements as they may reasonably require to consider financing applications.

(b) Screen Australia need not accept further applications from producers who have previously breached the terms of their Official Co-production approval.

10. INDUSTRY UNIONS AND ASSOCIATIONS

Approval as an official co-production does not necessarily indicate that the Australian industry unions and associations will take the same position as Screen Australia in relation to the approval of the importation of cast and crew. It is strongly recommended that you contact the individual union and associations in regard to applicable policies, rates and conditions prior to application for co-production approval. These bodies are listed below.

Australian Guild of Screen Composers

PO Box 42
POTTS POINT NSW 2011
Phone: +61 2 9332 2599
Email: agsc@cia.com.au

Australian Directors Guild

PO Box 211
ROZELLE NSW 2039
Phone: +61 2 9555 7045
Fax: +61 2 9555 7086
Email: admin@adg.org.au

Australian Writer's Guild

Suite 8, 50 Reservoir Street
SURREY HILLS NSW 2010
Phone: +61 2 9281 1554
Fax: +61 2 9281 4321
Email: admin@awg.com.au

Media Entertainment & Arts Alliance

245 Chalmers Street
REDFERN NSW 2016
Phone: +61 2 9333 0999
Fax: +61 2 9333 0933
Email: federal@alliance.org.au

Screen Producers Association of Australia

34 Fitzroy Street
SURREY HILLS NSW 2010
Phone: +61 2 9360 8988
Fax: +61 2 9360 8977
Email: spaa@spaa.org.au

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